



March 26, 2025

Douglas Girod
Office of the Chancellor
University of Kansas
230 Strong Hall
1450 Jayhawk Blvd.
Lawrence, Kansas 66045

URGENT

Sent via Overnight Mail and Email (kuchancellor@ku.edu)

Dear Chancellor Girod:

The Student Press Freedom Initiative (SPFI) at the Foundation for Individual Rights and Expression (FIRE)¹ writes to implore you to uphold press freedom at the University of Kansas by protecting funding for *The University Daily Kansan*.

The Kansan is an award-winning student publication that has provided crucial journalistic coverage to KU faculty, staff, students, and the broader Lawrence community for nearly 120 years.² The paper has won seven Online Pacemaker awards, and the Society of Professional Journalists honored the publication as the best non-daily student newspaper in the country in 2020.³

During the COVID-19 pandemic, *The Kansan* switched from a paid workforce to an all-volunteer staff.⁴ With the pandemic's end, the paper sought to again begin paying its staff. To support that effort, KU's Student Senate granted the paper an allocation of \$3.64 per student for fiscal year 2025, an increase from the \$1.80 allocation the paper had received since 2021. The increased funding led to improved engagement and content.⁵

¹ FIRE is a nonpartisan nonprofit that defends free speech and of the press on and off campus. You can learn more about our mission and activities at thefire.org. SPFI defends free press on campus by advocating for the rights of student journalists at colleges and universities across the country.

² *Home*, THE UNIV. DAILY KANSAN, <https://www.kansan.com/> (last visited Feb. 24, 2025).

³ *University Daily Kansan*, THE UNIV. OF KAN., <https://journalism.ku.edu/university-daily-kansan> (last visited Feb. 24, 2025).

⁴ Email from Nick Jungman, advisor, to Dominic Coletti, program officer, (Feb. 14, 2025, 9:21 a.m.) (on file with author).

⁵ *Id.*

This year, however, the Assembly’s attitude towards *The Kansan* became openly hostile. In a closed-door meeting, the Student Senate Fee Review Committee established its recommended student fee allocation for the 2025–26 budget.⁶ On February 10, the Committee sent its proposal to stakeholders, revealing plans to cut funding for *The Kansan* to just 75 cents per student—an 80 percent cut—lower than even the mid-pandemic \$1.80. On February 14, the Finance Council, a larger group of senators tasked with approving the Fee Review Committee’s recommendation, rejected the Committee’s proposal and recommended the Committee leave *The Kansan*’s allocation at \$3.64.⁷

On February 19, *The Kansan* published an article identifying possible violations of the Kansas Open Meetings Act (KOMA) in the Fee Review Committee’s process.⁸ Specifically, lawyers quoted in the article pointed out that an alleged university policy keeping Fee Review Committee deliberations confidential did not allow the body to legally enter executive session.⁹

On March 7, the Fee Review Committee met again to discuss the proposed cuts. Student Body President DaNae Estabine accused *Kansan* supporters of “bullying” and attacked *The Kansan*’s reporting, alleging the article about KOMA contained falsehoods.¹⁰ She also argued that *The Kansan* “shouldn’t be a fee entity because they don’t behave like a professional fee entity.”¹¹ One Committee member spoke at length about preventing groups like *The Kansan* from derailing funding cuts with protests.¹²

Estabine also argued that while the paper is funded by fee dollars, it cannot be independent.¹³ She suggested “every student on campus owns” *The Kansan* and that the paper is therefore required to answer to individual students’ complaints about its coverage.¹⁴ Estabine further recommended the Fee Committee slash the paper’s funding entirely to prevent *Kansan* staff from bullying and “playing the victim” in the future.¹⁵ Another senator then acknowledged that the government cutting funds to a journalistic outlet would be received poorly before proposing cutting the funding to “a \$1.25 to \$1.80 range.”¹⁶ She argued this gradual cut would cast the Student Senate in a more favorable light.¹⁷ Eventually, the Fee Committee

⁶ Emily Harter & Julia Hanson, *KU Student Senate violates Kansas Open Meetings Act*, THE UNIV. DAILY KANSAN, (Feb. 19, 2025), https://www.kansan.com/news/ku-student-senate-violates-kansas-open-meetings-act-attorneys-say/article_70c213b0-ef00-11ef-87a7-03add2582a70.html.

⁷ Email from Jungman, *supra* note 4.

⁸ Harter & Hanson, *supra* note 6.

⁹ *Id.*; see also @kusenate, INSTAGRAM, (Feb. 11, 2025, 10:52 p.m.), <https://www.instagram.com/p/DF9VYfVNCgb> [<https://perma.cc/93HJ-NXJF>].

¹⁰ *Id.*

¹¹ *Id.*

¹² KU Student Senate, *Required Student Fee Deliberations 2*, YOUTUBE, <https://www.youtube.com/watch?v=O3LpfyD-yQ> [<https://perma.cc/PT3K-YPQU>].

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

recommended a cut from \$3.64 to \$1.50, which the Finance Council approved.¹⁸ The fee package now sits with the Students Assembly, which is scheduled to vote on it today.

The decisions and actions of a public university and its student government—including funding of student organizations—must comply with the First Amendment.¹⁹ The Supreme Court has made clear that public universities like KU may not place content- or viewpoint-based restrictions on the distribution of student activity fee funds.²⁰ KU’s authority to impose and distribute mandatory student fees—whether through student government or otherwise—carries with it the obligation to ensure this content-neutral distribution.²¹

The Fee Committee’s proposed cut is neither content- nor viewpoint-neutral. Committee members made clear during the March 7 hearing they were implementing the cuts because they disapproved of the publication’s KOMA article and *Kansan* staff’s response to the initial cut.²² The student body president herself justified ignoring the Council’s recommendation by saying that the Student Senate needed to send a message to those who would dare challenge the Committee’s recommendation. Choosing to punish *The Kansan* for its and its supporters’ expression is incompatible with KU’s First Amendment obligations. It is even more alarming when done in combination with Committee members’ desire to prevent *The Kansan* and other fee entities from protesting fee cuts in the future.²³

These animosity-driven cuts (as well as promised future cuts) to *The Kansan*’s funding threaten the newspaper’s ability to gather and publish news. KU must protect students’ First Amendment rights both to publish and to learn from journalists’ work.²⁴ Not only is KU obligated to uphold expressive freedoms, it explicitly guarantees students freedom to “express

¹⁸ Julia Hanson, *Student Senate Finance Council passes proposed budget bill*, THE UNIV. DAILY KANSAN (Mar. 13, 2025), https://www.kansan.com/news/student-senate-finance-council-passes-proposed-budget-bill/article_1ddd0da2-ffa0-11ef-8232-cf2795657bb2.html.

¹⁹ *Bd. of Regents of the Univ. of Wisc. Sys. v. Southworth*, 529 U.S. 217, 221 (2000); *Koala v. Khosla*, 931 F.3d 887, 894 n.1 (9th Cir. 2019) (assuming action by student government regarding student newspaper funding was state action because it was an “exercise of authorities concerning student affairs by delegations” of power from the university); *Ala. Student Party v. Student Gov’t Ass’n of Univ. of Ala.*, 867 F.2d 1344, 1349 (11th Cir. 1989) (University of Alabama student government is a state actor when analyzing First Amendment challenge to student government campaign finance regulations); *Gay & Lesbian Students Ass’n v. Gohn*, 850 F.2d 361, 365–66 (8th Cir. 1988) (state university student government was a state actor for purposes of allocating funding to student groups).

²⁰ *Southworth*, 529 U.S. at 233 (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”). Viewpoint discrimination is “an egregious form of content discrimination.” *Rosenberger*, 515 U.S. at 829.

²¹ *Southworth*, 529 U.S. at 230.

²² KU Student Senate, *supra* note 12.

²³ See *Koala*, 931 F. 3d, at 905 (student government members’ comments demonstrating retaliatory intent was sufficient to sustain a First Amendment retaliation claim even against a generally applicable rule).

²⁴ See *Southworth*, 529 U.S. at 233 (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”); see also *Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (“[T]he Constitution protects the right to receive information and ideas.”).

[their] views in all forms of communication, including distributing written material.”²⁵ While the Student Assembly evidently does not appreciate that value when it comes to *The Kansan*, KU is no less required to protect it. Nor does the Assembly have a principled objection to compensating student employees. Last year, it spent \$4,500 for its own pizza parties and paid Student Senate staff more than \$100,000 in total.²⁶ Assembly members understand the value of compensation in incentivizing hard work.

Student journalists serve an important role as “surrogates for the public” in keeping a watchful eye on the operations of powerful institutions.²⁷ As members of the campus community, student journalists are an important part of the process of informing the public of the undertakings of universities situated in its communities and ensuring transparency. The Student Senate should reward, not punish, such efforts.

KU still has a chance to make things right under the law and invest in a free press by rejecting these viewpoint- and animus-based cuts to *The Kansan*. Given the upcoming vote on this matter, we request a substantive response to this letter no later than the close of business on March 27, 2025, confirming KU will uphold its constitutional obligations and hold constant funding for *The Kansan*.

Sincerely,



Dominic Coletti
Program Officer, Campus Rights Advocacy

Cc: Kansas Board of Regents
Kimberly Schlie Grunewald, General Counsel
DaNae Estabine, Student Body President
Christopher Raithel, Speaker of the Students’ Assembly

²⁵ *Students’ Rights and Expectations*, THE UNIV. OF KANSAS, <https://studentconduct.ku.edu/free-expression-ku> [<https://perma.cc/E4BX-JP9N>] (last visited Feb. 24, 2025).

²⁶ *Budget Book Fiscal Year 2025*, Block Allocations Breakdown, STUDENT SENATE UNIV. OF KAN., <https://studentsenate.ku.edu/sites/studentsenate/files/documents/FY%202025%20Budget%20Book.pdf> [<https://perma.cc/PJ5E-NGAU>].

²⁷ *Richmond Newspapers v. Virginia*, 448 U.S. 555, 573 (1980).